

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,	*
	*
PLAINTIFF,	*
	*
V.	* CASE NO. 2:05CR204-T
	*
BILLY MERCER, JR.,	*
	*
DEFENDANT.	*

UNOPPOSED MOTION TO CONTINUE

Comes now defendant, by and through undersigned
counsel, and submits the following:

1. The above styled cause has been set for jury trial
during the February 13, 2006 term.

2. Defendant is charged with possession with intent to
distribute Methamphetamine (21 USC 841(a)(1)) and use and carry
of a firearm in relation to a drug trafficking crime (18 USC
924(c)(1)).

3. Undersigned counsel and the Government have been in
good faith negotiations to resolve this case without the
necessity of a trial. Undersigned counsel and the Government
were both optimistic that this case would settle, but on
February 2, 2006 those negotiations terminated without an
agreement to resolve the case.

4. Counsel spent a great deal of time in the negotiations

researching matters regarding the sentencing guidelines, possible career offender issues and other matters that counsel cannot reveal in this motion due to attorney client confidentiality. Counsel also consulted with U. S. Probation regarding certain matters. It is believed that it may be beneficial to pursue further efforts at negotiation, but additional time is needed to do so. Because of such it is requested that additional time be allowed for additional research and discussion with the Government and/or trial preparation in this case.

5. It is also the defendant's desire that a continuance be granted in this case. A waiver of speedy trial executed by defendant is attached to this motion as Exhibit A.

6. Undersigned counsel also has set for trial during the February 13, 2006 trial term one other case in this court: U.S. v. McCall, Case No. 1:05cr153. That case is expected to last approximately 2 days.

7. Undersigned counsel has conferred with AUSA Terry Moorner, attorney for the Government, regarding this motion and the Government does not oppose this request for continuance.

WHEREFORE, because of the above reasons undersigned counsel requests that the trial in the above styled case be reset to a later trial term.

Respectfully submitted this 2nd day of February, 2006.

s/Jeffery C. Duffey
JEFFERY C. DUFFEY
Attorney for Defendant
Billy Mercer, Jr.
600 South McDonough Street
Montgomery, AL 36104
Phone: 334-834-4100
Fax: 334-834-4101
email: jcduffey@aol.com
Bar No. ASB7699F67J

s/Benjamin E. Schoettker
Benjamin E. Schoettker
Attorney for Defendant
608 S. Hull Street
Montgomery, Al. 36104
Phone: 334-834-3444
Fax: 334-262-8897
bes@barfootschoettker.com
Bar No. ASB-7648-172S

CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Terry Moorer
AUSA
P.O. Box 197
Montgomery, AL 36101

Respectfully submitted,

s /Jeffery C. Duffey
JEFFERY C. DUFFEY